



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Eric J. Steinle, Esq.
Spencer Fane Britt & Browne LLP.
1000 Walnut Street, Suite 1400
Kansas City, MO 64106

APR 27 2009

RE: MUR 6072
NPG Newspapers, Inc.

Dear Mr. Steinle:

On September 22, 2008, the Federal Election Commission notified your client, NPG Newspapers, Inc. ("NPG") of a complaint alleging a violation of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint was forwarded to your client at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission found, on April 21, 2009, that there is no reason to believe NPG violated the Act, or the Commission's regulations. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, reading "Susan L. Lebeaux", is written over a horizontal line.

Susan L. Lebeaux
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: NPG Newspapers, Inc.

MUR: 6072

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission ("Commission") by David R. Browning, the Libertarian nominee for Missouri's 6th Congressional District. See 2 U.S.C. § 437g(a)(1). For the reasons set forth below, the Commission found no reason to believe that NPG Newspapers, Inc. ("NPG") violated the Federal Election Campaign Act of 1971, as amended ("the Act"), or the Commission's regulations, and closed the file as to this respondent.

II. DISCUSSION

A. Factual Summary

NPG operates St. Joseph's News Press, a daily newspaper distributed in St. Joseph, Missouri. See NPG Response at 2. NPG and Missouri Western State University ("Missouri Western") planned to co-sponsor a candidate debate on October 16, 2008, and, when Missouri Western chose not to participate, NPG held the debate on its own. The participants invited to attend were the individuals who had won the Democratic and Republican nominations in Missouri's August 5, 2008, primary election for the U.S. House of Representatives in the State's 6th Congressional District.

Prior to the debate, complainant, who had won the Libertarian Party's primary election for Missouri's 6th Congressional District and who was qualified to appear on the general election ballot, alleged in a complaint filed with the Commission that NPG had improperly denied him the opportunity to participate in the debates by failing to use pre-established, objective criteria, and by promoting certain candidates over others, in violation of the Commission's debate staging regulation at 11 C.F.R. § 110.13.

According to NPG's Response, submitted prior to its scheduled debate, it complied with the Commission's debate staging criteria at 11 C.F.R. §§ 110.13(b) and (c) by including at least two candidates and not promoting one of them over the other, and by selecting debate participants based on pre-established,

1 objective criteria. *Id.* at 3. Attached to NPG's Response is an affidavit by Ken Newton, an employee of
2 NPG, which avers that he selected the two debate participants based solely on pre-established objective
3 criteria, including an examination of each candidate's financial support, popular support, historical data, and
4 expenditures of time, money, and effort. Newton Affidavit at 1. Specifically, the Newton Affidavit states
5 that, based on those factors, complainant raised only \$3,300, while the Democratic and Republic candidates
raised in excess of \$1.8 million, and that election polls reflected that complainant's popular support was no
greater than 4%.

In addition, according to Newton, the historical data from general elections in 2002, 2004, and 2006
reflected that Libertarian candidates had garnered no more than an average 1.7% of the vote in the District
race. *Id.* at 1-2. Newton also notes that neither he nor NPG received any press releases from complainant's
campaign discussing its campaign positions, but had received press releases from the Democratic and
Republican candidates, and that he was unaware of any public appearances by the complainant in St. Joseph,
Missouri, until September 14, 2008, when complainant spoke at a picnic attended by approximately ten
people. *Id.* at 2.

B. Analysis

The Act prohibits "any corporation whatever" from making contributions or expenditures in
connection with federal elections. 2 U.S.C. § 441b(a). However, the Commission's regulations provide that
"[b]roadcasters (including a cable television operator, programmer, or producer), *bona fide* newspapers,
magazines and other periodical publications may stage candidate debates in accordance with [section 110.13]
and 11 C.F.R. § 114.4(f), provided they are not owned by or controlled by a political party, political
committee or candidate." 11 C.F.R. § 110.13(a)(2). In its Response, NPG states that it is not controlled by

any candidate, political party or political committee. NPG Response at 2.¹ As such, NPG is covered by section 110.13(a)(2) to the extent that it complied with the rules in sections 110.113(b) and (c), which require that debate staging organizations include at least two candidates, do not favor one over the other, and use pre-established, objective criteria to select participants. It appears that NPG complied with the applicable rules, including using reasonably objective criteria to select its debate participants. See MURs 5395 (Dow Jones) and 4956, 5962, and 4963 (Gore 2000).

Therefore, the Commission found no reason to believe that NPG Newspapers, Inc. violated the Federal Election Campaign Act of 1971, as amended, or the Commission's regulations, and closed the file as to this respondent.

¹ NPG is a division of News-Press and Gazette Company, which has holdings in newspapers, cable, and broadcast television stations. <http://npg-inc.com>.